

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**CRIMINAL ACTION NO.: 3:21-CR-49  
(GROH)**

**JONATHAN TOEBBE  
and DIANA TOEBBE,**

Defendants.

**ORDER OF COMPLEX CASE SCHEDULE**

On October 21, 2021, this Court entered an order [ECF No. 58] granting the Government's unopposed motion for complex case designation. On October 27, 2021, the Government filed a proposed complex case schedule [ECF No. 60]. Upon review of the parties' proposal, the Court sets forth the following Complex Case Schedule:

**IT IS ORDERED THAT:**

(1) The Government shall provide Defendants' counsel with copies of pretrial unclassified discovery and inspection on or before **February 17, 2022**.

Reciprocal discovery shall be provided on or before **March 1, 2022**.

Any declination of disclosure, additional discovery or inspection and additional evidence shall be in accordance with LR Cr P 16.02, 16.03 and 16.04.

(2) Exculpatory evidence shall be disclosed on or before **February 17, 2022**.

LR Cr P 16.05.

(3) All motions, including any motion for a bill of particulars pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure and LR Cr P 47.01, shall be filed on or before March 21, 2022. All such motions shall contain or be accompanied by a memorandum or brief presented at the time of filing setting forth the reasons and legal support for granting such motion. Responses, if any, shall be filed on or before April 1, 2022.

(4) A hearing on all motions, if referred to the United States Magistrate Judge by the Court, shall be held by the Magistrate Judge on April 6, 2022 at 1:30 p.m. If any of the pretrial motions require the taking of testimony, the party offering the testimony shall notify the Magistrate Judge's office seven (7) days prior to the hearing to obtain a court reporter for the hearing. The Defendants shall be present at the hearing on all pretrial motions. The United States Marshals Service requires that subpoenas for witnesses be issued ten (10) days prior to the date of the hearing in order for them to be able to serve them.

(5) All proposed voir dire questions, motions in limine and proposed jury instructions shall be submitted to the Court and opposing counsel on or before April 18, 2022. The proposed jury instructions will (1) contain the style of the case, (2) the name of the party submitting the jury instructions, (3) be separately and consecutively numbered, (4) state by title the subject matter of the instruction and (5) include a recorded citation of authority in support of the proposed jury instruction.

Objections to opposing counsel's instructions of law are due in writing no later than the last working day before trial.

Counsel are required to provide to the court by email the voir dire and instructions in Microsoft Word format. Please contact the Chief District Judge's Chambers for an email address prior to filing.

(6) By 11:59 p.m. on April 18, 2022, counsel for each party shall file with the United States Clerk's Office, Martinsburg Division, and serve upon opposing counsel a list of probable witnesses and possible witnesses (identified as such), but not whether or not the Defendants shall be witnesses. The list shall state the full name and address of each witness and shall also contain a brief statement of the subject matters to be covered by each witness. Expert witnesses and record custodians shall be identified as such on the list. LR Cr P 16.07.

(7) By 11:59 p.m. on April 18, 2022, counsel for each party shall file with the United States Clerk's Office, Martinsburg Division, and serve upon opposing counsel a list of exhibits to be offered at trial. In addition, counsel for each party shall number the listed exhibits with evidence tags which may be obtained from the Clerk and shall exchange a complete set of marked exhibits with opposing counsel (except for large or voluminous items or other exhibits that cannot be reproduced easily). LR Cr P 16.08.

(8) Rule 404(b), Giglio, Roviaro and Jencks Act material shall be disclosed on or before April 11, 2022. LR Cr P 16.06.

(9) If this matter results in the formulation of a plea agreement, counsel shall submit to the Court the executed plea agreement or an unexecuted final proposed agreement by 11:59 p.m. on April 22, 2022.

(10) A pretrial conference in this case will be held on May 5, 2022, at 9:30 a.m. in the Martinsburg District Judge Courtroom.

(11) **Jury selection** and the **trial** in this matter will be conducted before the District Court at the following time and place:

Federal Courthouse  
217 West King Street  
Martinsburg, West Virginia 25401

**May 17, 2022, at 9:00 a.m.**

Trial will commence upon completion of jury selection.

**IF A PARTY DESIRES TO FILE A MOTION FOR A CONTINUANCE OF THE TRIAL OR ANY OTHER SCHEDULED EVENT, COUNSEL FOR THAT PARTY SHALL, PRIOR TO THE FILING OF ANY MOTION, MEET AND CONFER WITH OPPOSING COUNSEL AND AGREE UPON THREE NEW DATES SHOULD THE MOTION BE GRANTED AND THAT INFORMATION SHALL BE INCLUDED IN THE MOTION. IF COUNSEL FOR THE OPPOSING PARTY OBJECTS TO A CONTINUANCE, THAT FACT SHALL ALSO BE NOTED IN THE MOTION.**

(12) The Defendants shall appear at every scheduled matter, including, but not limited to, the motion hearing, the pretrial conference, the trial and every other proceeding.

(13) Defense counsel shall notify the Clerk of Court in writing at least two weeks in advance if the services of an interpreter are required for a hearing or trial.

The Clerk is **DIRECTED** to provide copies of this Order to all counsel of record herein.

**DATED:** October 29, 2021

  
GINA M. GROH  
CHIEF UNITED STATES DISTRICT JUDGE